
DIGEST
—OF—
TOWN LANDS CASES.

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ALPHABETICAL DIGEST
OF
CASES RELATING TO CROWN LANDS
AND COGNATE MATTERS.

BY
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LAW CLERK TO THE DEPARTMENT OF CROWN LANDS FOR ONTARIO.

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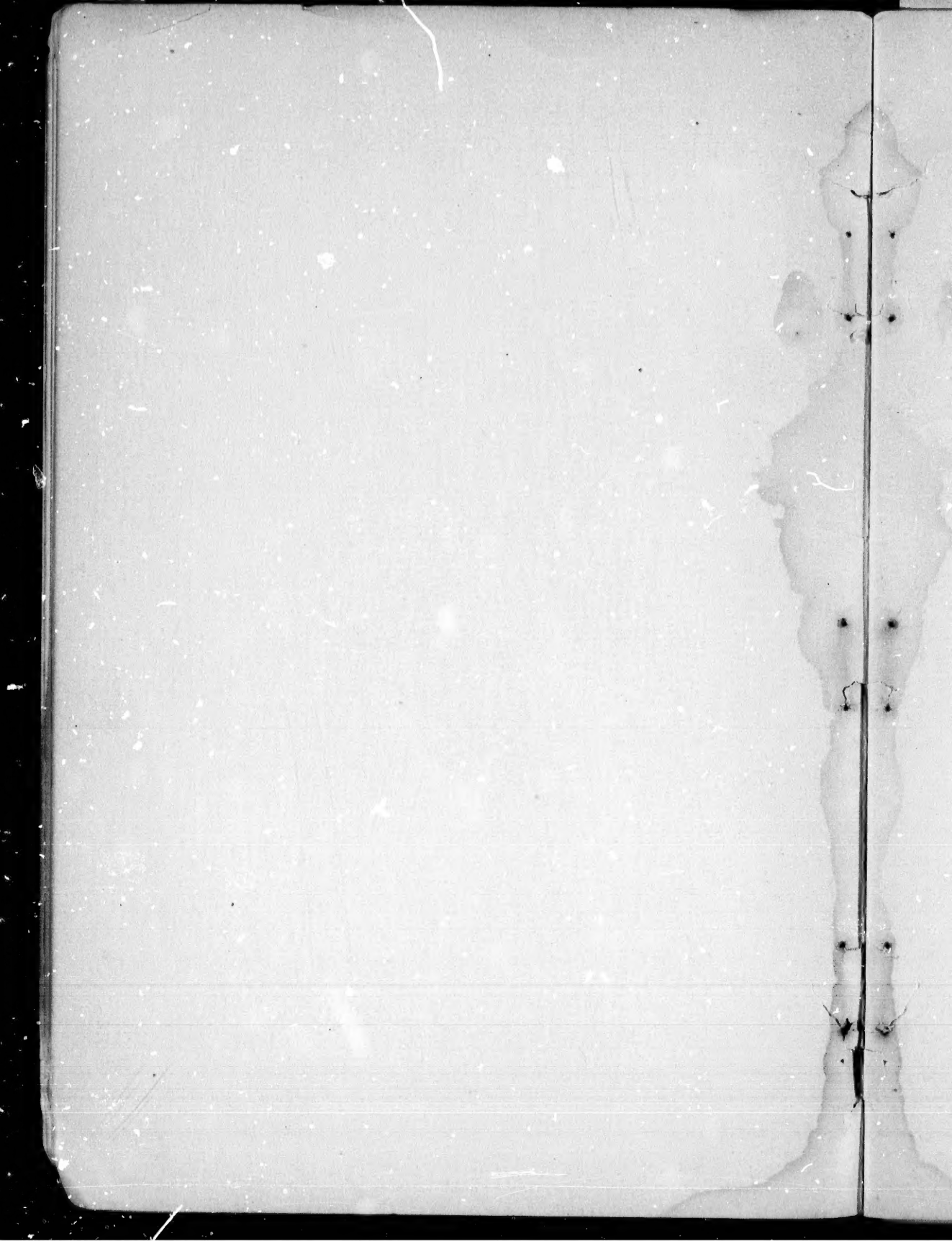


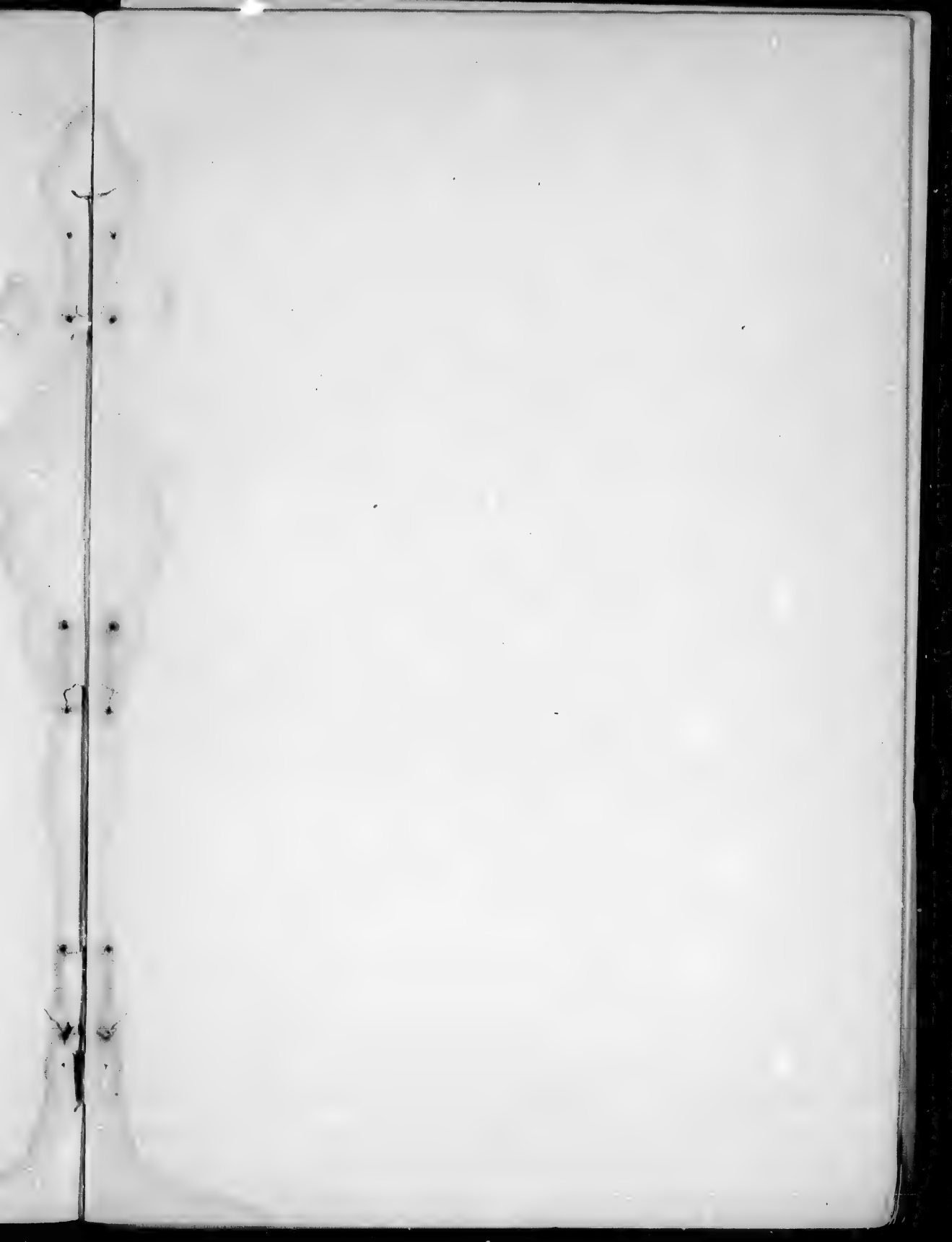


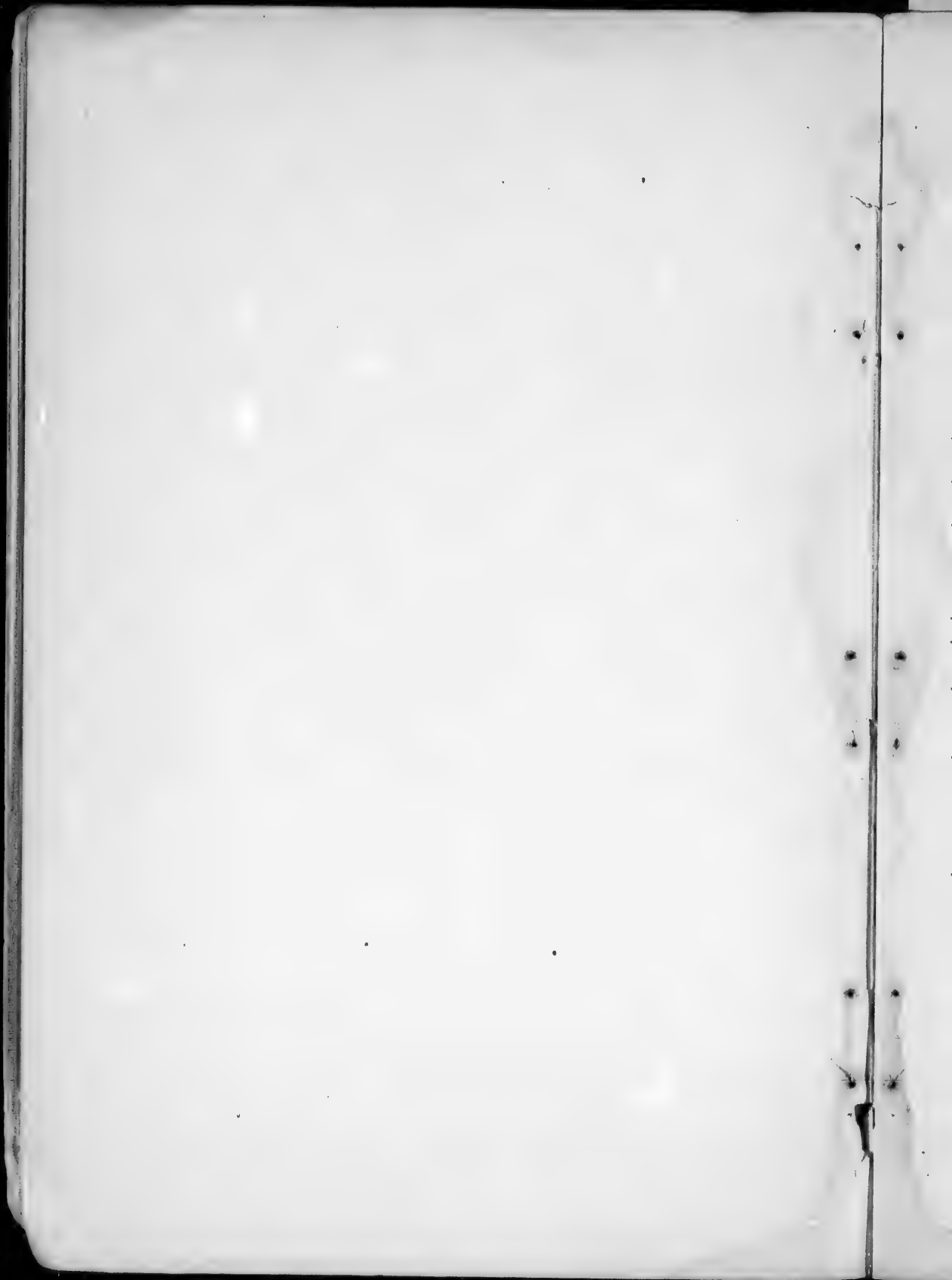


The following Digest was not made with any view to publication, but on the completion of the manuscript it appeared to the Commissioner of Crown Lands that if printed it might be of some service to persons having dealings with the Department, and perhaps to the legal profession generally. It is therefore submitted, not as noting absolutely every case in which a point relating in some way to the Crown Lands Department has been decided, but as a tolerably fair, and, it is hoped, correct summary of the resultant of all the cases decided in our Courts bearing upon the administration of the Crown Lands. A few matters noted in the course of reading have been introduced, though not directly connected with the general subject of the Digest.

DEPARTMENT OF CROWN LANDS,
TORONTO, May, 1891.







ALPHABETICAL DIGEST
OF
CASES RELATING TO CROWN LANDS
AND COGNATE MATTERS.

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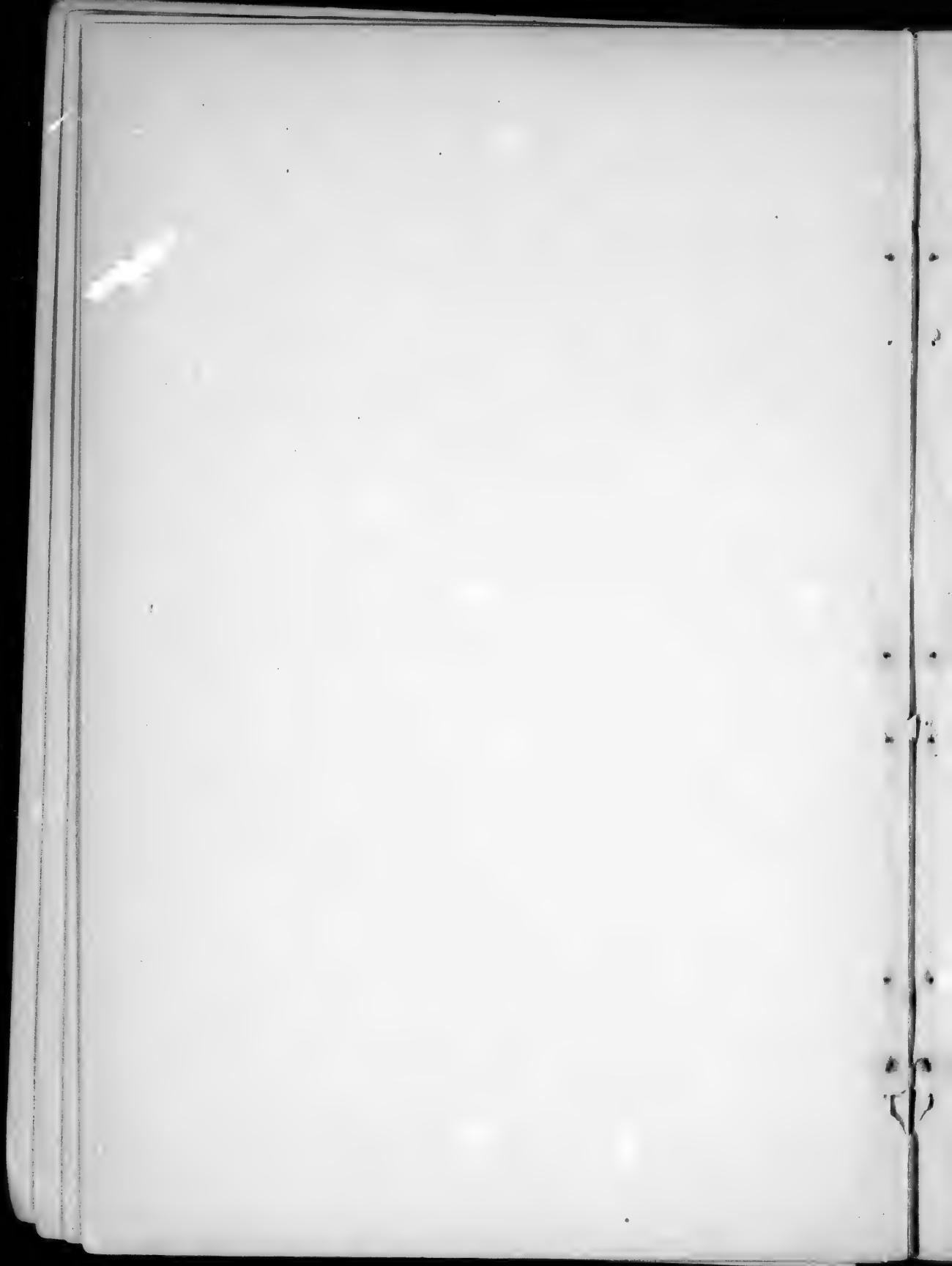
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Indian agent not a crown land agent. *Young v. Scobie*, 10 Q.B. 372.

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unless where title is not in the Crown but in the individual Indian. *Totten v.*
Watson, 15 Q.B. 392.

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Vanvleck v. Stewart, 19 Q.B. 489.

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Indian right, bill to rescind contract to purchase, dismissed, whole estate being in the
Crown. *Bown v. West*, 1 O.S. 287.

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Interest before patent must be shewn to enable party to impeach patent. *Mutchmore*
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Intrusion, in information for, by Attorney General of Canada, title in Dominion not
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Justice of the Peace empowered to take affidavits only where he can act as Justice.
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Land. See CLAIMS; CORPORATION; DESCRIPTION; GOVERNOR; INDIAN; MISJOINDER; RESERVATION; TIMBER; WATER.

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Married Woman, conveyance by, good without husband joining. *Boustead v. Whitmore*, 22 Chy. 222; *Contra, Ogden v. McArthur*, 36 Q.B. 246.

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Misrepresentation by Crown Lands Agent makes him responsible for money paid by a purchaser to a third party in consequence thereof. *McMaster v. Geddes*, 19 Q.B. 216.

Mistake, patents issued in, cancelled. *Martyn v. Kennedy*, 4 Chy. 61; *Atty.-Gen. v. Garbutt*, 5 Chy. 380; *Atty.-Gen. v. Hill*, 8 Chy. 532; *Fricht v. Scheck*, 10 Chy. 254; *Stevens v. Cook*, 10 Chy. 410; *Atty.-Gen. v. Contois*, 25 Chy. 346.

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"More or less," omission of, in one part of description, cured by insertion in another. *Cartwright v. Dettlor*, 19 Q.B. 210.

Mortgage, registration of, before patent, is notice whether under Heir and Devisee Commission or not. *Vance v. Cummings*, 13 Chy. 25; *Watson v. Lindsay*, 27 Chy. 253.

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Notice, express, of unregistered assignment before patent has same effect as of unregistered deed after patent. *Goff v. Lister*, 13 Chy. 406; 14 Chy. 451.

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Onus of proof in suit by private individual to set aside patent, is on plaintiff. *McIntyre v. Attorney-General*, 14 Chy. 86.

Order in Council that no patents issue for certain lands without a special reservation, extends the reservation to the lands before patent. *Miller v. Purdy*, H.T. 6: Vict.

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Partition, Court will not, a squatter's right. *Jenkins v. Martin*, 20 Chy. 613.

Court will not, lands of which title is in Crown. *Abell v. Weir*, 24 Chy. 464.

Party without title cutting hay has no right of action against another party without title taking possession. *Graham v. Heenan*, 20 C.P. 340.

Patent, abstract shewing, not evidence without exemplification. *Reed v. Ranks*, 10: C.P. 202.

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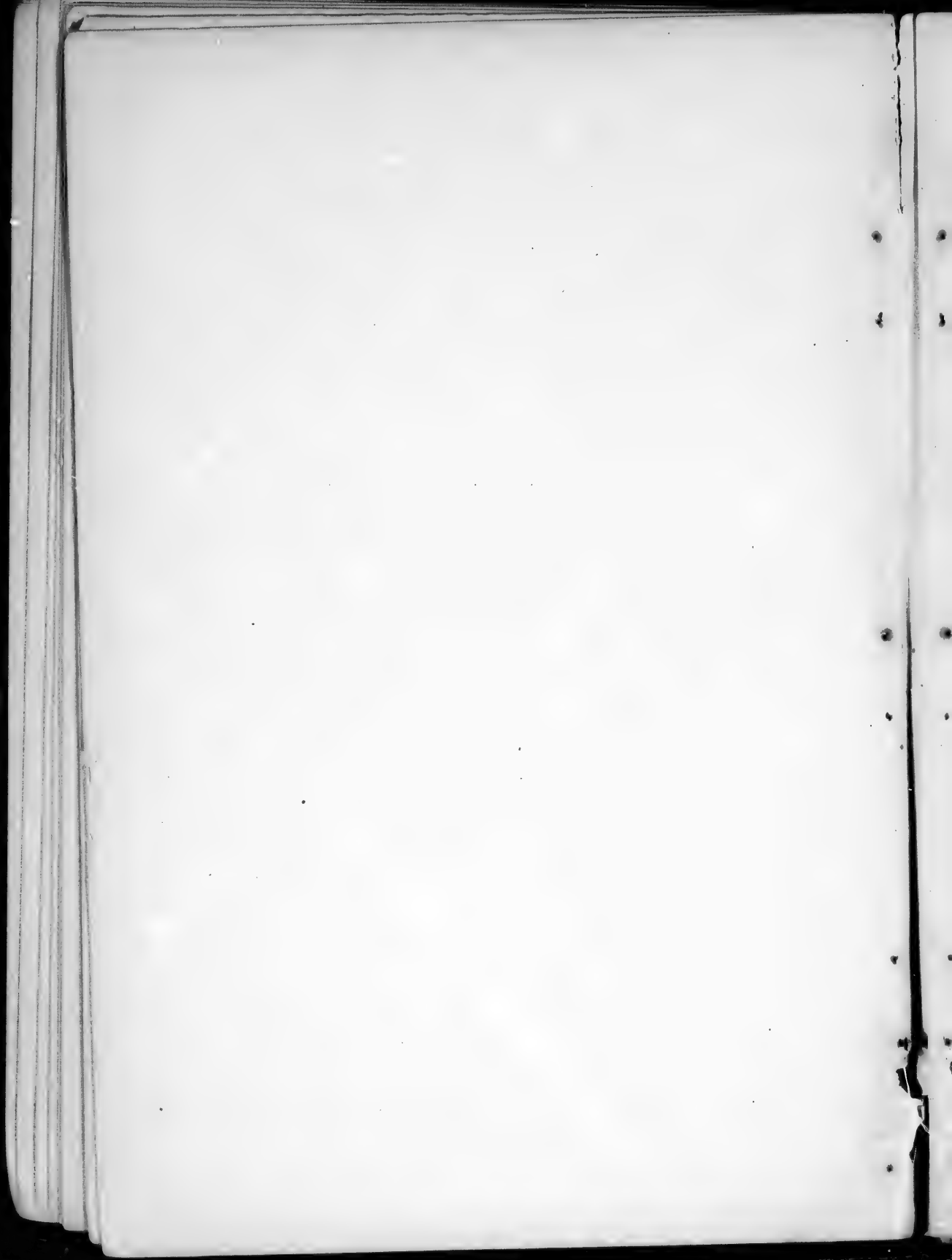
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Permit to cut specific quantities of timber is not exclusive. *Sinnot v. Scoble*, 11
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Pine tree regulations do not empower the Department to renew licenses after three
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Plan, copy of, certified by Surveyor-General, admissible. *Badgley v. Bender*, 3 O.S. 221.

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Plan, reserve marked as such on, cannot be granted to private parties. *Saugeen v. Church Society*, 6 Chy. 538.

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Possessory Title, trespasser cannot give himself, so as to eject one in lawful possession. *Cole v. Brunt*, 35 Q.B. 103.

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Priority. Tax deed over deed under patentee first registered. *Jones v. Cowden*, 34 Q.B. 345 ; 36 Q.B. 495.

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Purchaser having paid an instalment, entitled to possession against occupant. *Henderson v. Westover*, 1 E. & A. 465 ; *Henderson v. Seymour*, 9 Q.B. 47.

Purchaser's interest available for creditors. *Yale v. Tollerton*, 13 Chy. 302 ; *Ferguson v. Ferguson*, 16 Chy. 309. See R. S. O. 1887, ch. 64, sec. 25.

in possession may maintain trespass or replevin. *Deedes v. Wallace*, 8 C.P. 385 ; *Glover v. Walker*, 5 C.P. 478 ; *Alexander v. Bird*, 8 C.P. 539 ; *Henderson v. McLean*, 8 C.P. 42 ; 16 Q.B. 630 ; *Whiting v. Kernahan*, 12 C.P. 57 ; *Nicholson v. Page*, 27 Q.B. 505.

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Quarter of a lot extends one-half the depth and one-half the width of the whole lot, and not affected by subsequent grant of another quarter described as half of half. *Davis v. McPherson*, 33 Q.B. 376.

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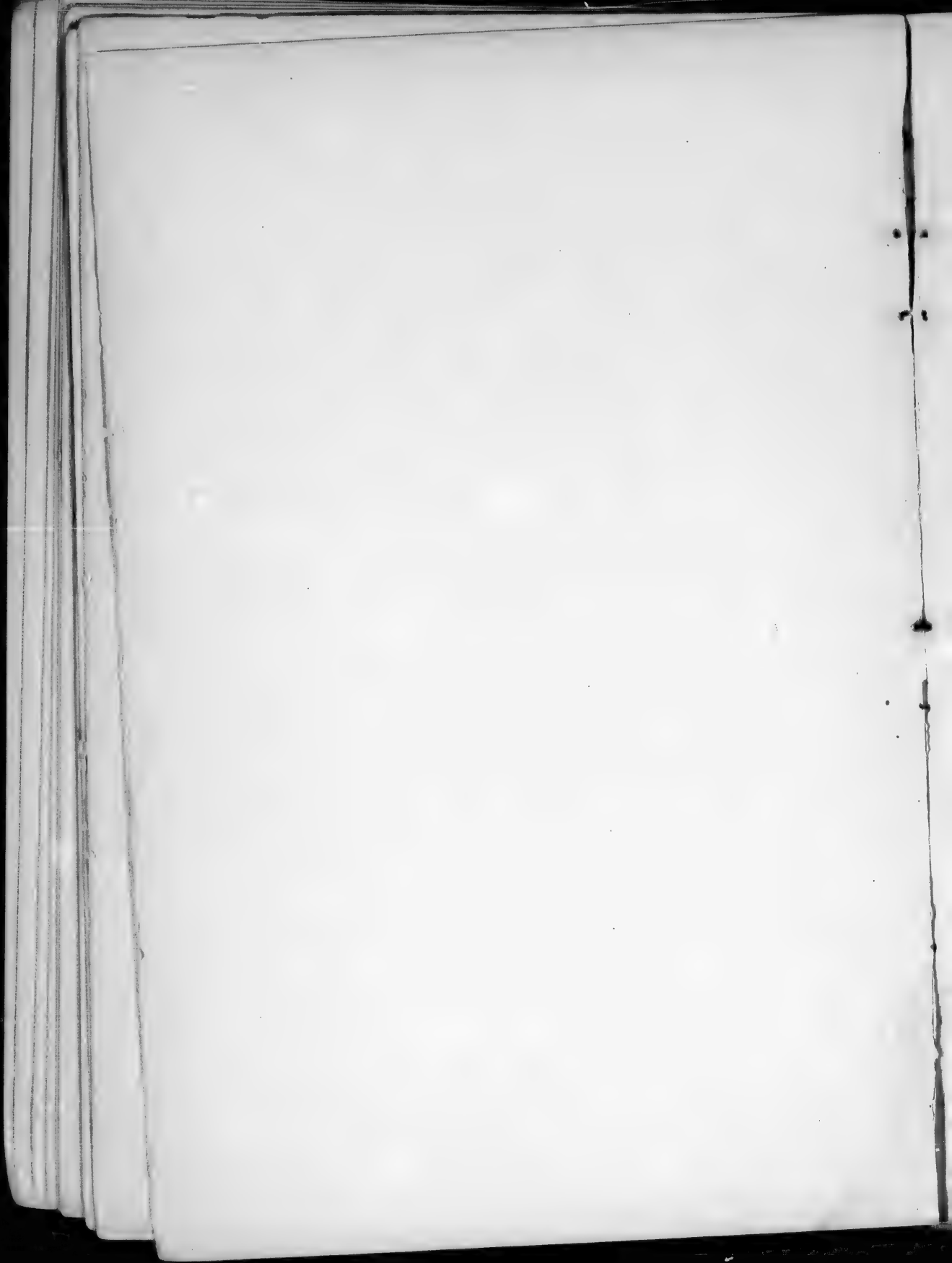
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Recital of notice in warrant, not evidence of notice. *Little v. Keating*, 6. O.S. 265.

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Registration before patent applies only to mortgages, liens, or incumbrances. *Holland v. Moore*, 12 Chy. 296.

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Replevin maintainable by party in possession entitled to renewal of license against a wrongdoer before license actually renewed. *Gilmour v. Buck*, 24 C.P. 187.

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Reservation in patent by Order in Council extends to the lands before patent. *Miller v. Purdy*, H.T. 6 Vict.

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Reserve marked as such on plan cannot be granted to private parties. *Saugeen v. Church Society*, 6 Chy. 538.

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Restitution, writ of, refused after conviction of forcible entry and detainer, lease of Crown reserve having expired. *Rex v. Jackson*, Dra. 50.

Revoke appropriation for religious purpose, Governor in Council has power to. *Simpson v. Grant*, 5 Chy. 267.

Right of action, party without title cutting hay has no, against another party without title taking possession. *Graham v. Heenan*, 20 C.P. 340.

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River, what is a, a question of fact for jury. *McHardy v. Ellice*, 37 Q.B. 580; 1 A.R. 628.

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Road allowance, conviction for overflowing by water from mill-dam sustained through only partially used as road. *Reg. v. Lees*, 29 Q.B. 221.

district councils had no power to pass by-laws enabling township councils to sell. *Cochran v. Hislop*, 3 C.P. 440.

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in possession of private individual can only be opened by municipality. *Curry v. McLeod*, 12 Q.B. 545.

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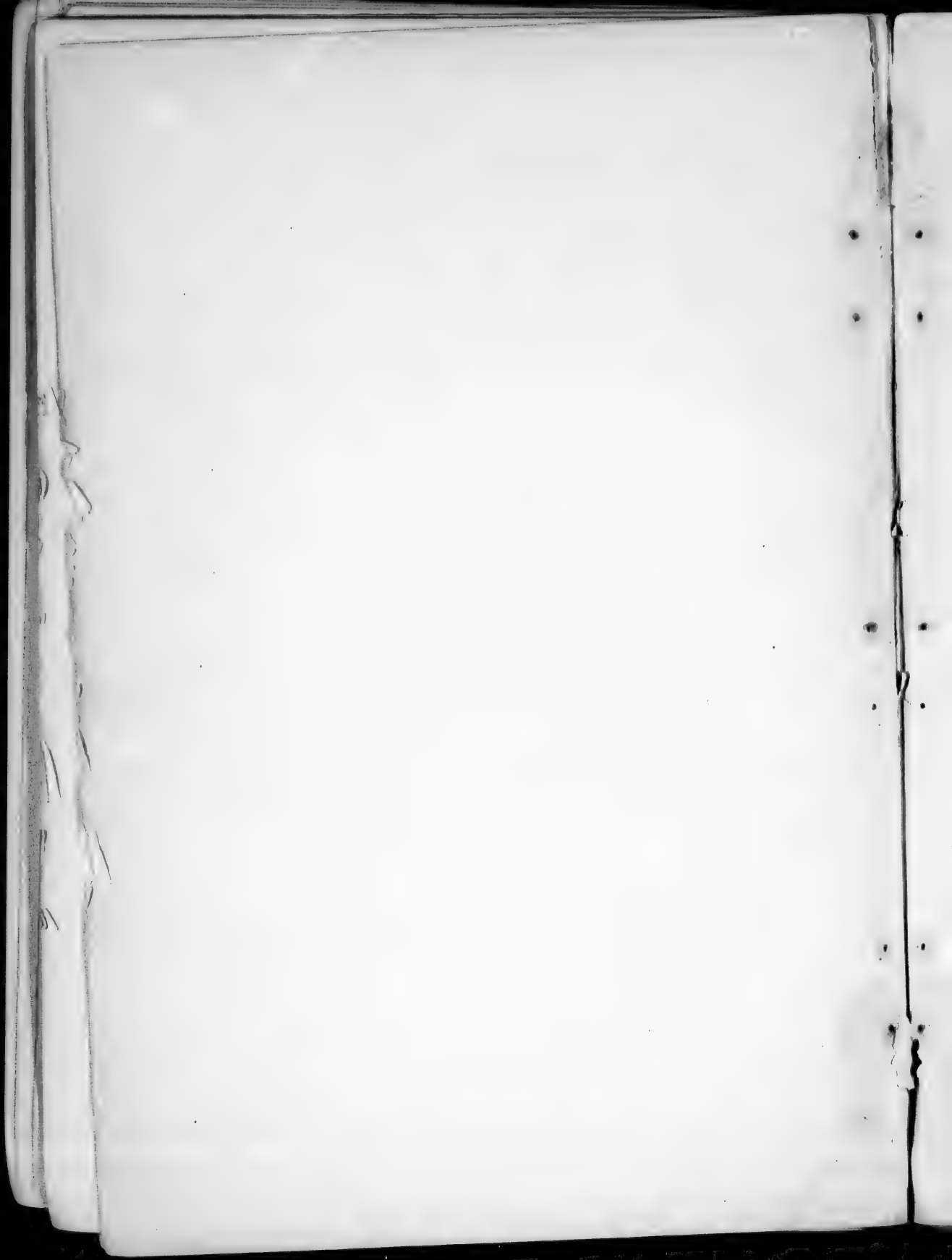
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Road allowance, timber on, may be cut by licensees, when no by-law passed. *Burleigh v. Campbell*, 18 C.P. 457.

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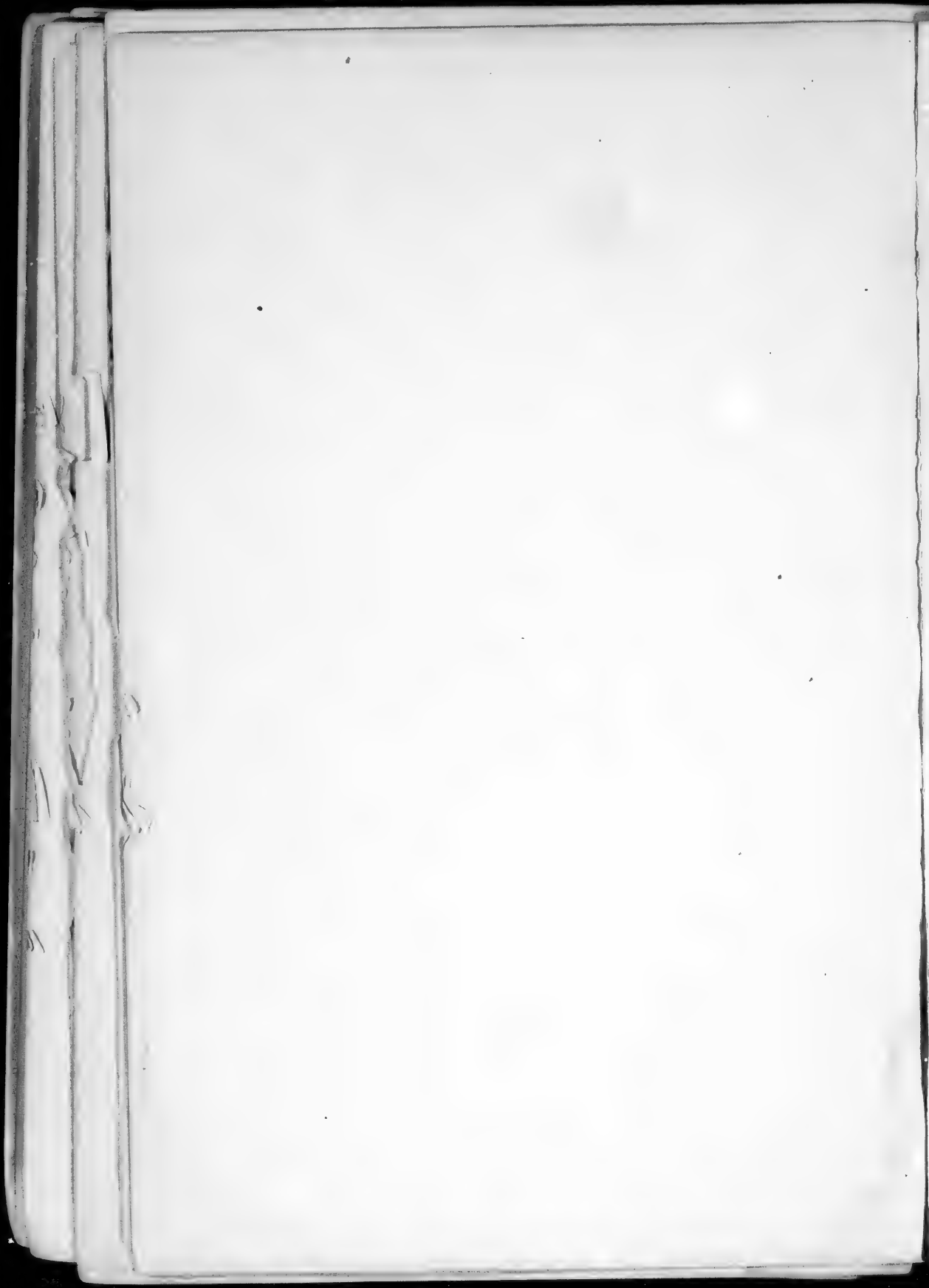
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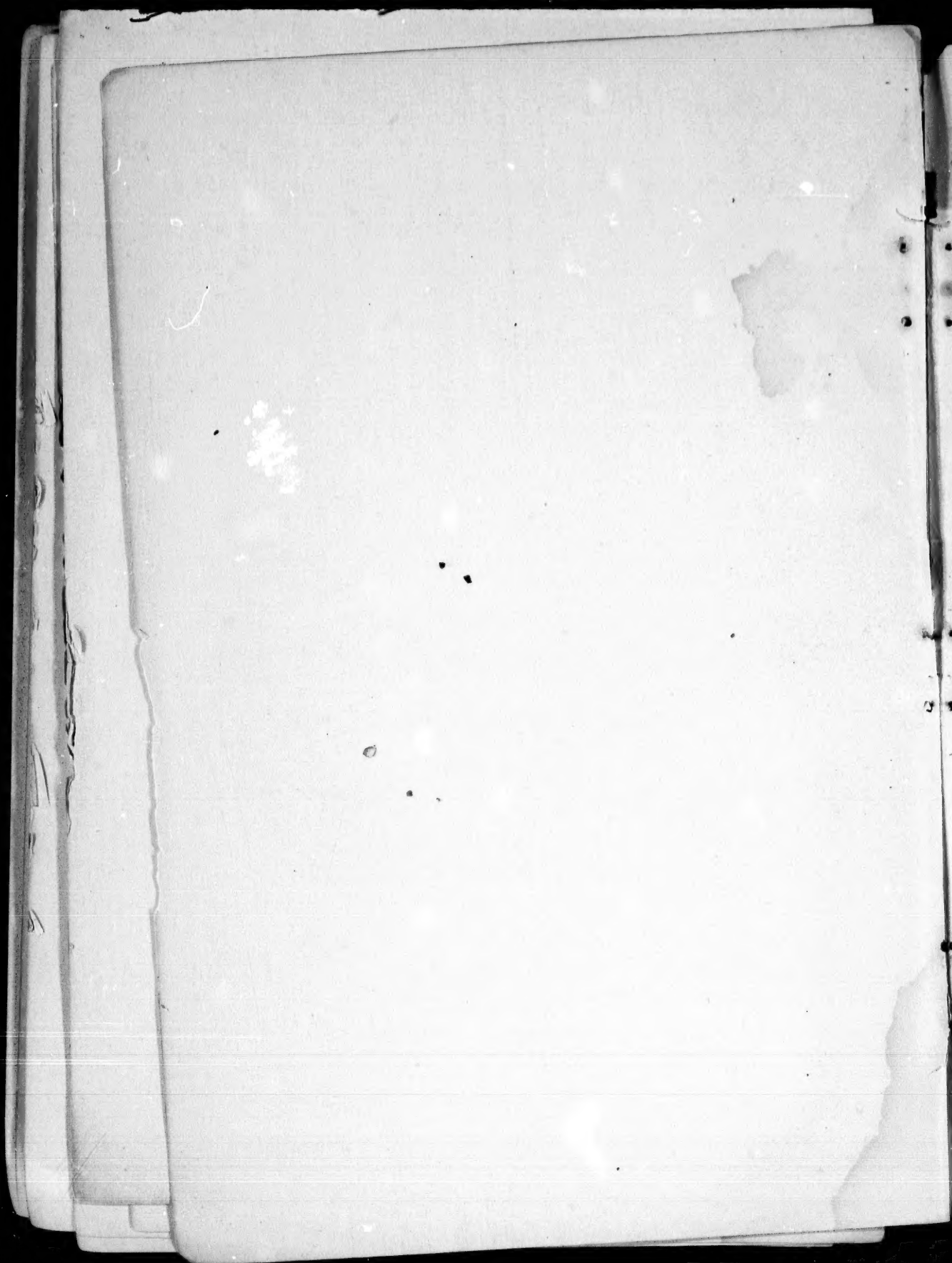
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